

REMARKS/ARGUMENTS

These remarks are made in response to the Office Action of August 6, 2008 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 50-0951.

Claim Rejections – 35 USC §§ 102 & 103

Claims 1, 4-6, 9-13, 16-20, and 23-26 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,453,281 to Walters (hereinafter Walters). Claims 2-3, 7-8, 14-15, and 21-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Walters in view of U.S. Patent 5,943,402 to Hamel (hereinafter Hamel).

Applicants respectfully disagree with the rejections and thus have not amended claims. Applicants have cancelled Claims 6-26. However, Applicants are not conceding that the cancelled claims fail to present patentable subject matter. The cancellations are solely for the purpose of expediting prosecution. Accordingly, the cancellations should not be interpreted as the surrender of any subject matter, and Applicants expressly reserve the right to present the original version of any of the cancelled claims in any future divisional or continuation applications from the present application.

Aspects of Applicants' Invention

It may be helpful to reiterate certain aspects of Applicants' invention prior to addressing the cited references. One embodiment of the invention, as typified by amended Claim 1, is a method of marking various types of audio content within an audio file.

The method can include, for each type of audio content, defining a set of audio tags comprising an opening tag and a closing tag; associating the set of audio tags with a

corresponding type of audio content; marking a starting location of the corresponding type of audio content within the audio file using the opening tag; and marking an ending location of the corresponding type of audio content within the audio file using the closing tag. See, e.g., Specification, paragraph [0020]; see also Fig. 2.

The Claims Define Over The Prior Art

In a conventional digital recording that includes various forms of audio content, there is no way of demarcating one type of content from other types of audio content that may be included within the same digital recording or audio file. For example, in the context of testing a voice response system, a digital recording of a user session with the voice response system would include both user spoken requests as well as voice prompts from the voice response system. What is needed is a way in which different types of audio content can be marked within a single digital recording or audio file. See Specification, paragraphs [0002] and [0003].

In order to solve the problem, the present invention provides a method for marking various types of audio content within audio files. In accordance with the inventive arrangements the present invention, audio tags can be included within an audio file to isolate and identify different types of audio content. The audio tags can be user definable and provide an organization to the audio file. See Specification, paragraph [0004].

Walters discloses a method for storing and retrieving information to and from a memory of a hand-held audio database device. The audio database device includes a graphics display provided on a hand-held housing for displaying graphical information. A microphone and a speaker are provided on the housing to receive and broadcast audio information from and to a user, respectively. The audio database device includes a memory configured to store graphical icons and to support a hierarchical memory structure comprising categories, wherein the icons graphically represent the categories. A user-actuated navigation control is provided on the housing and permits a user to

navigate the categories in the hierarchical memory structure and to select a desired category. A processor is coupled to the memory, the display, and the navigation control and effects displaying of one of the icons on the display when the user is navigating a corresponding one of the categories, and storing of the audio information in the desired category of the memory. See the Abstract.

Clearly, Walters concerns a portable audio database device employing a hierarchical audio database and an icon-based user-interface. In other words, Walters concerns how audio files are organized in an audio database and how they can be stored to and retrieved from the audio database. Therefore, Applicants believe that the subject matter of Walters has nothing to do with the present invention which concerns how to demarcate different types of audio content within a single digital recording or audio file using audio tags.

Fig. 28 of Walters shows an audio program marking and composing system 600 in which a user can mark selected portions of one or more of the audio programs contained in the audio database 604, download the marked audio program portions from the audio database 604 to the memory 624 or memory module 614 of the portable audio database device 618, and manipulate the downloaded audio segments to compose a desired audio program. It is noted that in Walters the markings are used to select certain portions of audio programs to be downloaded, not to demarcate different types of audio content within a single audio file as in the present invention. The markings S1, S2, S3, E1, E2, and E3 indicate the start point and end point of the corresponding selected portions of the audio programs to be downloaded. However, these markings do not indicate different types of audio content. For example, the subprograms SP1, SP2, and SP3 are all portions of lectures.

Accordingly, Walters fails to disclose or suggest each and every element of Claim 1, as amended. Applicants therefore respectfully submit that amended Claim 1 defines over the prior art. Furthermore, as each of the remaining claims depends from Claim 1

while reciting additional features, Applicants further respectfully submit that the remaining claims likewise define over the prior art.

Applicants thus respectfully request that the claim rejections under 35 U.S.C. §§ 102 & 103 be withdrawn.

CONCLUSION

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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